IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3602 OF 2006.

1. Shivprasad @ Raju Malharsheth Mundalik
2. Sanjay Malharseth Mundalik
3. Vijay Malharseth Mundalik
4. Amol Suresh Maltankar .. Applicants.

V/s

State of Maharashtra .. Respondents.

Shri S.V. Marwadi for the applicants.
Shri S.S. Pednekar, APP for the State.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 17TH OCTOBER, 2006.

P.C.

. The applicants are arrested in connection with C.R.No. 96/2006 registered at Jejuri Police station. The offences alleged are punishable under Section 307, 395, 397, 109 and Section 120B of Indian Penal Code.

2. The applicants' application for bail has been rejected on the ground that the investigations are in progress. However, both sides do not dispute that the applicants are remanded to Judicial Custody. They have been placed under the arrest from 29th August, 2006.

3. I have perused the complaint lodged by one Prashant Prakash Dahale. It appears that the applicants as also the complainant are in jewellery business. They are having their shops opposite to each other on the main road in the market. It further appears that on account of the fact that the complainant was doing well in jewellery business and the clientele of the applicants started reducing that the disputes arose.

4. Mr. Marwadi submits that the real dispute is because of the fact that Applicant NO.4, brother in law of the applicant No.1 was intimate and had an affair allegedly with the sister of the complainant. It is on account of the same and the business rivalry which is the foundation of the prosecution story . He has invited my attention to the orders passed on the remand applications, the contents of the remand application and observations of the learned Judge to this effect that although there is discrepancy in the statements of the complainant, investigations are still going on. The main accused Bhairav Shinde is yet to be arrested. The learned Judge according to Shri Marwadi was of the opinion that the applicants would abscond and would not be available for trial. He submits that appropriate

conditions be imposed.

5. Mr. Pednekar, learned A.P.P points out that the investigations are still in progress, the allegations are serious in as much as 20 to 25 persons barged into the shop of the complainant after assaulting the complainant with weapon sticks and stones took away jewellery articles worth more than 5 lakhs. It is his submission that the applicants here in have hired the absconding accused and others to take revenge on the complainant, as also with the view to commit robbery at their shop. He submits that if the applicants are released on bail they will tamper with the evidence and tamper further investigation.

6. After perusing the statement of Prakash Narayan Dahade and others, so also perusing the reports submitted by the prosecution, before the trial Court, in my view, although the investigations are in progress, the applicants' case for bail can be considered, the jewellery business of the applicants is affected in as much as for family members are arrested. The applicants have pointed out that the love affairs between applicant NO.4 and the sister of the complainant is also one of

the reason but applicant NO.4 is willing to reside out side the city on release so also there is no apprehension of other applicants' absconding as much as they will report to the police station. The applicants have no antecedents and have been in jewellery business. In these circumstances , applicants deserves to be enlarged on bail with the following conditions. Hence, order:-

i) The applicant arrested in connection with C.R. No. 96/ 2006 registered with Jejuri Police Station shall be released on bail subject to furnishing a personal bond of Rs. 25,000/- each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicants Nos. 1 to 3 shall report to Jejury Police station twice a week till the filing of the chargesheet and thereafter as per the directions by the trial court.

iii) The applicant No.4 shall not enter the limits of Jejury Police station till filing of the chargesheet and

thereafter shall abide by such directions as are issued by the trial Court.

iv) Applicant No. 4 has to reside till the chargesheet is filed at Daund and he will report to the Daund Police station twise a week.

iii) The order of bail will be given effect only after the applicants furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after they are enlarged on bail. The applicants will not change their residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any

attempt by the applicants to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C. DHARMADHIKARI, J.)